

HONORABLE RONALD B. LEIGHTON

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

CASCADE MANUFACTURING SALES,

Plaintiff,

vs.

PROVIDNET CO. TRUST, a Washington trust
dba WORMSWRANGLER.COM;
BARRY RUSSELL, an individual,

Defendants.

Case No.: C08-5433RBL

ORDER GRANTING PLAINTIFF'S
REQUEST TO FIND DEFENDANTS IN
CONTEMPT

The Court held a hearing on June 25, 2009 on the Motion for Contempt filed by Plaintiff Cascade Manufacturing Sales (“*Cascade*”). The Court directed Plaintiff to submit a proposed order outlining the steps Defendants Providnet Co. Trust (d/b/a wormswrangler.com) and Barry Russell (together, the “*Russell Defendants*”) are required to take in order to comply with the Court’s January 7, 2009 Order (the “*Injunction*”). The Court enters the following Order:

FINDING OF CONTEMPT AND FINE

The Court finds Defendants in contempt. The Court imposes a fine of five thousand dollars (\$5,000.00). However, the Court exonerates payment on this amount to the extent Defendants demonstrate compliance with the steps outlined below on or before July 13, 2009.

STEPS DEFENDANTS ARE REQUIRED TO TAKE TO COMPLY WITH THE INJUNCTION

As set forth above, Defendants are required to take the following steps on or before July 13,

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2009, and submit documentary proof of compliance with the Court:

(1) Defendants should send a letter (via 1st Class US Mail, facsimile, and email) to each of its more than 200 distributors mandating them to stop all use of the term “worm factory,” “factory of worms,” or other confusingly similar terms in connection with Defendants’ products (to simplify, the Order will refer to these terms collectively as “factory”). This letter should also advise these distributors not to engage in keyword advertising with respect to these terms, and invite these distributors to contact Defendants promptly if there is any confusion. Defendants should include a copy of the Injunction (the Court’s January 7, 2009 Order) with this correspondence. To demonstrate compliance, Defendants should submit to the Court a simple spreadsheet detailing each distributor, the date correspondence was sent to that distributor, the nature of that correspondence, and the method by which that correspondence was sent. Defendants should also submit to the Court representative samples of the correspondence itself.

(2) Defendants should remove all references to “factory” in tags, product descriptors, meta tags, or any other materials on Defendants’ Amazon and eBay stores, using the tools provided to vendors by these sites. If these tools are not sufficient, Defendants should contact these companies via fax or email, and request their assistance, and should submit the text of these requests to the Court. To the extent Defendants are unable to locate any contacts or individuals at Amazon or eBay, Defendants should contact counsel for Plaintiff, who are directed to furnish such contact information to Defendants, to the extent it is available to counsel for Plaintiff.

(3) Defendants should remove all references to “factory” on their website(s) via a simple “find and replace” search, by which they can replace the term “factory” with the term “farm,” if they wish. This search and replace task should include the meta-tags, key words, text visible to the end users, or any other text or code.

(4) Defendants should remove “factory” from their accounts on each keyword advertising medium (e.g. Google, Channel Advisor MSN, Yahoo) that Defendants use, and should submit a report to the court for each medium delineating all keyword purchases by all Defendants and any Defendant-controlled entities in 2009 to demonstrate compliance in 2009, and a second report

delineating all current keyword purchases used by Defendants on the date of submission.

Dated this 2nd day of July, 2009.


RONALD B. LEIGHTON

UNITED STATES DISTRICT JUDGE

Submitted by:

For Plaintiff

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